

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JO ANN HOWARD AND ASSOCIATES, P.C.,)
SPECIAL DEPUTY RECEIVER OF LINCOLN)
MEMORIAL LIFE INSURANCE COMPANY,)
MEMORIAL SERVICE LIFE INSURANCE)
COMPANY, AND NATIONAL)
PREARRANGED SERVICES, INC.; ET AL.,)
)
Plaintiffs,) Case No. 09-CV-1252-ERW
v.)
)
J. DOUGLAS CASSITY; RANDALL K.)
SUTTON; BRENT D. CASSITY; J. TYLER)
CASSITY; RHONDA L. CASSITY; ET AL.,)
)
Defendants.)

**STIPULATED VOLUNTARY DISMISSAL WITH PREJUDICE
OF COMPLAINT AGAINST DEFENDANTS HOWARD WITTNER,
INDIVIDUALLY, AS FORMER TRUSTEE OF THE RBT TRUST II, TRUSTEE FOR
PLICA EQUITY TRUST (F/K/A DIVISION I OF THE RBT TRUST II),
AND WITTNER, SPEWAK & MAYLACK, P.C.**

Plaintiffs and Defendants Howard Wittner individually, as former Trustee for RBT Trust II, and as Trustee for PLICA Equity Trust (f/k/a Division I of the RBT Trust II) (collectively, “Wittner”), and the law firm Wittner, Spewak & Maylack, P.C., formerly known as Wittner, Poger, Spewak, Maylack & Spooner, P.C. and Wittner, Spewak, Maylack & Spooner, P.C. (the “Law Firm”), (Wittner and the Law Firm are hereafter collectively referred to as the “Wittner Defendants”), under Fed. R. Civ. P. 41(a)(2), request an Order of the Court approving dismissal with prejudice of Plaintiffs’ claims against the Wittner Defendants, as contained in Plaintiffs’ Third Amended Complaint. The Wittner Defendants have not pleaded a counterclaim or filed a motion for summary judgment.

1. Plaintiffs' dismissal with prejudice against the Wittner Defendants shall not affect Plaintiffs' claims contained in Plaintiffs' Third Amended Complaint against the remaining defendants.

2. Plaintiffs and the Wittner Defendants stipulate and agree to this dismissal with prejudice.

Dated this 11th day of March, 2014.

Respectfully submitted,

s/ Wendy B. Fisher

Daniel M. Reilly (Admitted *Pro Hac Vice*)
Larry S. Pozner, E.D. Missouri Bar No. 2792CO
Wendy B. Fisher (Admitted *Pro Hac Vice*)
Glenn E. Roper (Admitted *Pro Hac Vice*)
Clare S. Pennington (Admitted *Pro Hac Vice*)
Farrell A. Carfield (Admitted *Pro Hac Vice*)
Lauren G. Jaeckel (Admitted *Pro Hac Vice*)
Sean Connelly (Admitted *Pro Hac Vice*)
Michael P. Robertson (Admitted *Pro Hac Vice*)
Michael T. Kotlarczyk (Admitted *Pro Hac Vice*)

Reilly Pozner LLP
1900 16th Street, Suite 1700
Denver, CO 80202
(303) 893-6100

Maurice B. Graham, Bar No. 3257
Morry S. Cole, Bar No. 77854
Gray, Ritter & Graham, P.C.
701 Market Street, Suite 800
St. Louis, MO 63101
(314) 241-5620

Attorneys for Plaintiffs Jo Ann Howard and Associates,
P.C., in its capacity as Special Deputy Receiver of Lincoln
Memorial Life Insurance Company, Memorial Service Life
Insurance Company, and National Prearranged Services,
Inc.; the National Organization of Life and Health

Insurance Guaranty Associations; the Missouri Life & Health Insurance Guaranty Association; the Texas Life & Health Insurance Guaranty Association; the Illinois Life & Health Insurance Guaranty Association; the Kansas Life & Health Insurance Guaranty Association; Oklahoma Life & Health Insurance Guaranty Association; the Kentucky Life & Health Insurance Guaranty Association; and the Arkansas Life & Health Insurance Guaranty Association

s/Paul Simon

Paul Simon, Jr., Bar No. _____
Sauerwein Simon & Hein P.C.
147 North Meramec Avenue
St. Louis, Missouri 63105
(314) 863-9100

Attorney for Defendants Howard Wittner individually, as former Trustee for RBT Trust II, and as Trustee for PLICA Equity Trust (f/k/a Division I of the RBT Trust II) (collectively, "Wittner"), and the law firm Wittner, Spewak & Maylack, P.C., formerly known as Wittner, Poger, Spewak, Maylack & Spooner, P.C. and Wittner, Spewak, Maylack & Spooner, P.C.

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2014, the foregoing **STIPULATED VOLUNTARY DISMISSAL WITH PREJUDICE OF COMPLAINT AGAINST DEFENDANTS HOWARD WITTNER, INDIVIDUALLY, AS FORMER TRUSTEE OF THE RBT TRUST II, TRUSTEE FOR PLICA EQUITY TRUST (F/K/A DIVISION I OF THE RBT TRUST II), AND WITTNER, SPEWAK & MAYLACK, P.C.** was filed electronically with the Clerk of Court and served by operation of the Court's electronic filing system upon all counsel of record in this case participating in Electronic Case Filing.

I hereby further certify that on March 11, 2014, the foregoing was sent by United States Postal Service or by electronic means, as indicated below, to the following non-participants in Electronic Case Filing:

Randall J. Singer
10833 Forest Circle Dr.
St. Louis, MO 63128
Pro se

Tony B. Lumpkin, III
2125 Amur Drive
Austin, TX 78745-2085
Pro se

James M. Crawford
418 Pine Bend Drive
Chesterfield, MO 63005
Pro se

Randall K. Sutton, *Pro Se*
Register Number 36549-044
FCI Terre Haute
Federal Correctional Institution
Satellite Camp
P.O. Box 33
Terre Haute, IN 47808

Brent Douglas Cassity, *Pro se*
Register # 38224-044
USP Leavenworth
U.S. Penitentiary Satellite Camp
P.O. Box 1000
Leavenworth, KS 66048

David R. Wulf, *Pro se*
Register # 38227-044
FCI Terre Haute
Federal Correctional Institution
Satellite Camp
P.O. Box 33
Terre Haute, IN 47808

Sharon Nekol Province, *Pro se*
Register # 36759-044
FMC Carswell
Federal Medical Center
P.O. Box 27137
Fort Worth, TX 76127

s/ Wendy B. Fisher
Wendy B. Fisher
(Admitted *Pro Hac Vice*)

Attorney for Plaintiffs